

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Alex Tuminello	Team: Team # 3	CCRB Case #: 201402218	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 02/28/2014 9:30 PM	Location of Incident: Pennsylvania and Jamaica Avenues; 75th Pct. stationhouse	Precinct: 75	18 Mo. SOL 8/28/2015	EO SOL 8/28/2015	
Date/Time CV Reported Sun, 03/02/2014 8:45 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 03/07/2014 10:26 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Kyle Stanley	03809	941148	075 PCT
2. POM Jay Rivera	03882	935599	075 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Sasa Maric	2098	933965	075 PCT
2. POM Mark Gomez	28073	944070	075 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Jay Rivera	Abuse: At the intersection of Pennsylvania Avenue and Jamaica Avenue in Brooklyn, PO Jay Rivera searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
B.POM Kyle Stanley	Abuse: At the intersection of Pennsylvania Avenue and Jamaica Avenue in Brooklyn, PO Kyle Stanley searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
C.POM Kyle Stanley	Force: At the 75th Precinct stationhouse, PO Kyle Stanley tightly handcuffed § 87(2)(b)	
D.POM Kyle Stanley	Force: At the 75th Precinct stationhouse, PO Kyle Stanley used physical force against § 87(2)(b)	
E.POM Kyle Stanley	Discourtesy: At the 75th Precinct stationhouse, PO Kyle Stanley spoke rudely to § 87(2)(b)	

Case Summary

On February 28, 2014, at approximately 9:30 p.m., PO Kyle Stanley and PO Jay Rivera of the 75th Precinct stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants. During his interaction with officers, § 87(2)(b) stated that both officers asked the men to step out of the vehicle after they stated they smelt an odor of marijuana. Both officers then searched the inside of the vehicle for approximately forty-five minutes to an hour (**Allegation A and B**). § 87(2)(b) stated that both men were under arrest but the officers did not say why. § 87(2)(b) believed that it was because § 87(2)(b) was driving with an expired insurance. The men were then transported back to the 75th Precinct stationhouse. Upon arrival at the stationhouse, § 87(2)(b) was taken to the front desk. He alleged that PO Stanley grew angry when he mentioned the word “attorney” and proceeded to twist and re-tighten his handcuffs. PO Stanley then pushed him to the floor and punched and kicked him in the body (**Allegations C and D**). § 87(2)(b) also alleged that while being fingerprinted, PO Stanley stated to him, “Who the fuck told you to move your hand” (**Allegation E**).

Mediation, Civil and Criminal Histories

- This case was ineligible for mediation because § 87(2)(b) was arrested in regards to the incident.
- On January 5, 2015, a Notice of Claim inquiry was sent to the NYC Comptroller’s Office and a response will be added to the case file upon its receipt (Encl. 23U).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) and § 87(2)(b) (Encl. 3A-3C).
- PO Stanley has been a member of the NYPD for 8 years, has had 49 previous CCRB allegations involving 18 cases with substantiated allegations in CCRB case numbers 200800947, 201013317, 201300926 and 201305267. § 87(2)(g)
[REDACTED]
- PO Rivera has been a member of the NYPD for 10 years, has had 43 previous CCRB allegations involving 19 cases with substantiated allegations in CCRB case numbers 201300926 and 201305267 (Encl. 2D-2F).

NYPD Documents

- According to arrest report numbers § 87(2)(b) and § 87(2)(b) PO Stanley reported that at the southeast corner of Pennsylvania Avenue and Jamaica Avenue in Brooklyn, § 87(2)(b) was observed driving a vehicle with expired registration. Both § 87(2)(b) and § 87(2)(b) were observed with marijuana open to public view and were observed with loose marijuana on his clothing. § 87(2)(b) did try and dispose of marijuana in the police van after being warned not to do so (Encl. 8A-9C).
- The Tour 3 Command Log from February 28, 2014, indicates that at approximately 10 p.m., § 87(2)(b) and § 87(2)(b) were logged into the stationhouse by PO Stanley. § 87(2)(b) s physical and mental condition is listed as apparently normal (Encl. 20I).

Findings and Recommendations

Allegations Not Pleaded

- **Vehicle Stop:** Both officers stated that they stopped § 87(2)(b)'s vehicle because they observed it was unregistered. § 87(2)(b) corroborated that the car had out of state plates. Other states have stickers on their license plates indicating the time of registration. § 87(2)(b) was uncooperative with the investigation and was unable to confirm which state his vehicle was registered. § 87(2)(g)

Explanation of Subject Officer Identification

Both PO Stanley and PO Rivera acknowledged searching § 87(2)(b)'s vehicle at the intersection of Pennsylvania Avenue and Jamaica Avenue in Brooklyn. § 87(2)(g) also alleged that a white male officer re-tightened his handcuffs, used physical force against him and spoke rudely to him at the 75th Precinct stationhouse. PO Stanley acknowledged processing § 87(2)(b)'s arrest at the 75th Precinct stationhouse. § 87(2)(g)

Recommendations

Allegation A: Abuse of Authority- At the intersection of Pennsylvania Avenue and Jamaica Avenue in Brooklyn, PO Jay Rivera searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.

Allegation B: Abuse of Authority- At the intersection of Pennsylvania Avenue and Jamaica Avenue in Brooklyn, PO Kyle Stanley searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.

It is undisputed that PO Stanley and PO Rivera searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants. § 87(2)(b) alleged that after § 87(2)(b)'s vehicle was stopped, the officers stated that they smelled marijuana and instructed the men to exit the vehicle. PO Stanley then searched the inside of the vehicle for approximately forty-five minutes to an hour.

Both officers stated that upon stopping § 87(2)(b)'s vehicle, they were able to smell an odor of marijuana coming from the vehicle. PO Rivera stated that he approached the driver's side of the vehicle and spoke with § 87(2)(b) while PO Stanley approached the passenger side of the vehicle and spoke with § 87(2)(b). With the aid of a flashlight, both officers observed marijuana particles on each of the men's clothing and in the generally vicinity of where they were seated. Both men were then instructed to exit the vehicle. PO Rivera then searched the reachable areas where § 87(2)(b) was seated while PO Stanley searched the reachable areas where § 87(2)(b) was seated. PO Stanley identified himself as the officer that located marijuana from the vehicle but he was unsure where it was specifically located. He stated that the vehicle search lasted approximately 1 to 2 minutes before the marijuana was located.

Regarding the smell of marijuana and the cloud of marijuana smoke seen inside the car, it is well stated the smell of marijuana alone is sufficient to provide police who are trained and experienced

in the use of marijuana, with probable cause to search the vehicle and its occupants. *People v. Johnson*, 901 N.Y.S 2d 909 (2009) (Encl. 1A-1C).

§ 87(2)(g)

Allegation C: Force- At the 75th Precinct stationhouse, PO Kyle Stanley tightly handcuffed

§ 87(2)(b)

Allegation D: Force- At the 75th Precinct stationhouse, PO Kyle Stanley used physical force against

§ 87(2)(b)

Upon arriving at the 75th Precinct stationhouse, the officers escorted § 87(2)(b) to the front desk. § 87(2)(b) began to explain to PO Rivera that he had a previous injury to his hip and back due to a car accident and these injuries could be confirmed with his attorney. § 87(2)(b) alleged that the word “attorney” made PO Stanley angry. PO Stanley then allegedly grabbed § 87(2)(b) and twisted his handcuffed arms in a painful manner and tightened his handcuffs in the process. He also alleged that PO Stanley then pushed him to the ground, punched and kicked him in the body and grabbed his previously injured right leg. § 87(2)(b) stated that the force lasted approximately fifteen minutes before he was placed in a holding cell.

PO Stanley acknowledged interacting with § 87(2)(b) at the 75th Precinct stationhouse while PO Rivera stated that he was not involved in the arrest processing of § 87(2)(b). PO Stanley stated that while at the stationhouse, § 87(2)(b) was very irate but he did not recall his specific action. PO Stanley stated that § 87(2)(b) explained to him that he was involved in a motorcycle accident. PO Stanley stated that at no point did he or any officers use any type of physical force. The investigation also interviewed PO Mark Gomez who was the Assistant Desk Officer and Sgt. Sasa Maric who was the Desk Officer at the 75th Precinct at the time of the incident. Both officers did not recall an incident involving § 87(2)(b) and PO Stanley.

The Tour 3 Command Log from the 75th Precinct also indicates that § 87(2)(b)'s physical and mental condition was apparently normal and medical attention was not requested. The investigation was also unable to acquire § 87(2)(b)'s medical records in regards to this incident because he refused to provide his doctor's information and stated that the undersigned investigator must contact his attorney. Subsequent contact attempts were made to § 87(2)(b)'s attorney and none of the calls were returned.

§ 87(2)(g)

§ 87(2)(g)

Allegation E: Discourtesy- At the 75th Precinct stationhouse, PO Kyle Stanley spoke rudely to § 87(2)(b)

§ 87(2)(b) alleged that while at the 75th Precinct stationhouse, PO Stanley removed him from the holding cell in order to fingerprint him. While at the fingerprinting machine, § 87(2)(b) removed his hand. PO Stanley then allegedly asked, “Who the fuck told you to move your hand?” PO Stanley stated that while § 87(2)(b) was irate while being processed at the stationhouse, at no point did he or any officers speak rudely to § 87(2)(b). All of the officers interviewed in regards to the investigation denied hearing PO Stanley speak rudely to § 87(2)(b).

§ 87(2)(g)

§ 87(2)(g)

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date